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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/159,481	09/23/1998	JOSEPH GERARD AGUILAR	8183-019-999	5173

20583 7590 06/25/2003

PENNIE AND EDMONDS  
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NEW YORK, NY 100362711

EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
2655	6

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/159,481	AGUILAR ET AL.
	Examiner Michael N. Opsasnick	Art Unit 2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 May 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-20 is/are pending in the application.

4a)  Of the above claim(s) 21-50 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.  
4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's election without traverse of claims 1-20 (group I) in Paper No. 5 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Imai et al (5864800).

As per claims 1,15, Imai et al (5864800) teaches:

“ a splitter for dividing an input audio signal.....input signal” as band splitting filter (Fig. 10, subblock 38) wherein the first component represents the original signal (Fig. 8, the + input to the adder is the original component)

“ a first encoder for providing encoded data about the first signal portion.....first signal portion” as the 0-44.1 kHz component (from fig. 10) passes thru untouched (Fig.

10, subblock 15), but a feedback signal containing a noise shaped portion of the original signal is used to generate a noise filtered original signal (output of Fig. 10 subblock 15) “a data assembler....data stream” as synthesis filter bank and band synthesis filter on the back end (Fig. 18).

As per claims 2,16, Imai et al (5864800) teaches decoder reconstruction (fig. 18).

As per claim 3, Imai et al (5864800) teaches band splitting in the frequency domain (fig. 4, Fig. 21).

As per claims 4,17,19,20, Imai et al (5864800) teaches different sampling rates (band splitting in half -- Fig. 4).

As per claim 5, Imai et al (5864800) teaches second decoders (fig. 18 and 29).

As per claims 6-14,18, Imai et al (5864800) teaches band splitting (Fig. 4, subblock 5), FFT transform (Fig. 4, subblock 16), octave bands (Fig. 4, Fig. 9a-9b, col. 6 lines 41-46), reconstructing octave bands (Fig. 17).

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form.

**4. Any response to this action should be mailed to:**

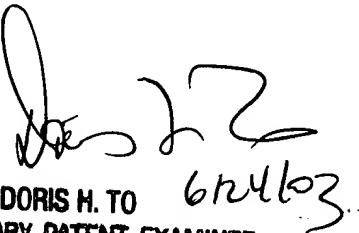
Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**  
(703) 872 9314,  
(for informal or draft communications, please label "PROPOSED" or "DRAFT")  
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

mno  
6/19/2003

  
DORIS H. TO 6/19/03  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600